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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,174	09/29/2003	Leigh E. Wood	58328US002	1946

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EXAMINER
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RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/674,174

Applicant(s)

WOOD ET AL.

Examiner

Ruth C. Rodriguez

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-15 and 29-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-15 and 29-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/2/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 02 March 2006 has been considered for this Office Action.
2. The finality of the rejection of the last Office action is withdrawn in order to address Applicant's concerns.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1-3, 7-15 and 29-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Document EP 0 669 121 A1 (EP '121) in view of Dilnik et al. (US 5,656,111).

EP '121 discloses a closure system comprises a base tab (90), a carrier tab (44), a fastener component (C. 20, L. 36-58), an overlap region and a bonding tape (74). The base tab comprises an outer edge (80) and first and second major surfaces (Figs. 1-3). The carrier tab comprises first and second major surfaces, an inner edge (50) and an opposing outer edge (108). The inner edge and the outer edge define a length of the carrier tab (Figs. 1-3). The fastener component is attached to at least one of the first and second major surfaces of the carrier tab (C. 20, L. 36-58). The overlap region in which a portion of the first major surface of the carrier tab faces the second major surface of the base tab such that the outer edge of the base tab is located between the inner and outer edges of the carrier tab (Figs. 1-3). The bonding tape is adhesively attached to the second major surface of the base tab adjacent the overlap region (Figs. 1-3). The bonding tape is further adhesive attached or welded to the first major surface of the carrier tab within the overlap region (C. 18, L. 5-10). The inner edge of the carrier tab is located between the bonding tape and the second major surface of the base tab (Figs. 1-3). EP '121 fails to disclose that the bonding tape is adhesively attached and welded to the major surface of the carrier tab with the overlap region. However, Dilnik teaches a closure system comprises a carrier tab (10), a fastener component (18) and a bonding tape (26). The carrier tab comprises an outer edge (14) and a major surface (Fig. 4B). The fastener component is attached to the major surface of the carrier tab (Fig. 4B). The bonding tape is adhesively attached between the carrier tab and the fastener component (Figs. 4B). The bonding tape is further adhesive attached and welded to the carrier tab and the fastener component (C. 6, L. 18-23 and C. 7, L. 29-

62). The use of adhesive and welding to join the carrier tab to the fastener component produce a system that possesses good shear adhesion and good peel adhesion (C. 7, L. 39-55). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have a bonding tape that is further adhesively attached and welded as taught by Dilnik for the bonding tape that joins the base tab to the carrier tab for the closure system disclosed by EP '121 especially since EP '121 disclose the use of both systems to join the carrier tab to the bases tab and the system will possess good shear adhesion and good peel adhesion as taught by Dilnik.

No adhesive is located between the first major surface of the carrier tab and the second major surface of the base tab within the overlap region (Fig. 3).

At least a portion of the base tab exhibits elasticity (C. 16, L. 30-43).

The bonding tape comprises a layer of pressure sensitive adhesive facing the base tab and the carrier tab (C. 23, L. 31-58).

The carrier tab is inelastic (C. 21, L. 9-23).

The bonding tape is inelastic (C. 23, L. 31-58).

The base tab comprises an integral portion of a disposable garment (Fig. 1).

The fastener component is adhesively attached to the carrier tab (C. 20, L. 36-58).

The fastener component comprises a mechanical fastener component (C. 20, L. 36-58).

The bonding tape is coextensive with a width of the carrier tab as measured transverse to the length of the carrier tape (Figs. 1-3).

The fastener component is coextensive with a width of the carrier tab as measured transverse to the length of the carrier tape (Figs. 1-3).

Regarding claim 15, a combination of rejected claims 1, 3, 6, 8 and 9 will serve to reject claim 15 since claim 15 combines the limitations of all of the aforementioned claims.

The first major surface of the carrier tab and the second major surface of the base tab are not attached to each other within the overlap region (Figs. 1-3).

For claim 31, the same rejection of claim 15 serves to reject claim 31 since the base tab has at least a portion of the base tab that exhibits elasticity (C. 16, 30-43).

Regarding claim 43, a combination of rejected claims 1, 3, 6, 8, 9 and 29 will serve to reject claim 43 since claim 43 combines the limitations of all of the aforementioned claims.

### ***Response to Arguments***

5. Applicant's arguments, see pages 3 to 5, filed 27 February 2006, with respect to the rejection(s) of claim(s) 1-3, 7-15, 29 and 30 under EP '121 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Dilnik.

6. Applicant's arguments filed 17 October 2005 have been fully considered but they are not persuasive.

7. The argument presented by the Applicant for claims 31-43 is that EP '121 fails to disclose that the carrier tab is not attached to the base tab at the overlap region since it is silent about this limitation. The Examiner fails to be persuaded by this argument.

The fact that the reference is silent on whether it has an adhesive at the overlap region does not mean that EP '121 had an adhesive in this area. One having ordinary skill in the art at the time of Applicant's invention will not assume that there is an adhesive in this area just because the specifications and the drawings are silent about this feature especially in view of Figure 3 and the specifications that EP '121 does not provide any mention or showing of an adhesive material and it does not describe any attachment of the base tab and the carrier tab in the overlap region outside of the bonding tape.

Additionally, the Examiner points out that the use of an adhesive on the overlap portion is not necessary because as disclosed by EP '121 the bonding tape is the element joining the carrier tab and the base tab. It is unclear why one of ordinary skill in the art will provide an adhesive when the bonding tape is already joining the tabs to thereby increase the production costs due to the use of the adhesive. Finally, this argument fails to persuade because the Applicant fails to provide any criticality as to why this feature is considered the allowable subject matter for this invention. The specifications only recite "It is preferred that no adhesive be located between the major surface 121 of the carrier tab web 120 and the major surface 112 of the base tab web 110 within the

overlap region 118.” and it does not provide any advantage or unexpected result obtained from having no adhesive attachment in the overlap region.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kawaguchi et al. (US 6,007,527), Richter et al. (US 6,363,587 B1) and Robertson et al. (US 6,736,804 B1) are cited to show state of the art with respect to closure systems having some of the features being claimed by the current application.

Dilnik (US 5,656,111, US 5,660,666, US 6, 406,467 B1 and US 6,627,289 B1) are cited to show state of the art with respect to the use of welding and adhesive to join members of a closure system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.




Art Unit: 3677

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

rcr  
March 10, 2006



**ROBERT J. SANDY**  
**PRIMARY EXAMINER**